THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 29th September, 2006

W.P.No.2042 of 2003

Between:

V. Sundaram … Petitioner

and

The District Collector,
Chittoor, Chittoor District
and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.2042 of 2003

ORAL ORDER:

It appears that the petitioner was a fair price shop dealer of Allagunta village, Karvetinagar Mandal of Chittoor District. From 1-11-1997 to 31-1-1998 he did not distribute the essential commodities to the cardholders, after intimating the fact to the Mandal Revenue Officer, Karvetinagar, in this regard, since he was suffering from Typhoid and Jaundice. However, the 2nd respondent-Revenue Divisional Officer cancelled the authorization held by him by an Order dated 4-4-1999 on this charge alone. Aggrieved by the same, he carried the matter in appeal before the Joint Collector. However, the Joint Collector, Chittoor dismissed the appeal by an Order dated 21-10-1999. Challenging the same, he filed a revision before the 1st respondent-District Collector, but the same was also dismissed. Even in the appeal before the Joint Collector and the revision before the District Collector, it was his case that on 1-11-1997 he applied for leave for three months to the 3rd respondent and the 3rd respondent asked him to proceed on leave and he would make alternative arrangements by handing over the same to the Village Administrative Officer of the village and in fact, thereafter, it was handed over to the VAO and he distributed the stocks for three months. After expiry of leave, he took over the charge of the shop on 1-2-1998 and distributed the essential commodities till the date of passing of the impugned Order on 4-4-1999. In the meanwhile, an

enquiry was conducted, wherein nothing has come forward except stating that some inconvenience was caused to the cardholders.

The fact as to whether the leave was granted by the 3rd respondent-Mandal Revenue Officer or not is not enquired into and no report is called for from the concerned. All the authorities, in one voice, simply stated that the petitioner has not lifted the essential commodities for the months i.e. November,1997, December 1997 and January,1998 and though the VAO had distributed the essential commodities, inconvenience was caused to the cardholders; therefore, the authorization held by the petitioner was liable to be cancelled.

I am of the opinion that if really no leave was granted by the 3rd respondent, either in writing or orally, and the VAO was made incharge by themselves, there was no necessity of permitting the petitioner to do business after 31-1-1998. At least, the authorities could have suspended the authorization of the petitioner and conducted some enquiry into it. They did not do so. On the other hand, when the petitioner resumed the dealership on 1-2-1998, he was supplied with essential commodities for more than 14 months and in the meanwhile, the so called enquiry was conducted and cancellation was ordered. I am of the view that even if it is assumed that there are some lapses on the part of the petitioner, some action could have been taken during that period, but nothing of that sort had happened. The petitioner was allowed to distribute commodities for more than 14 months and thereafter the impugned Order was passed. Therefore, the Order dated 4-4-1999 passed by the 2nd respondent-Revenue Divisional Officer as confirmed by the Joint Collector, Chittoor on 21-10-1999 and further by the 1st respondent-District Collector on 13-10-2002 is violative of principles of natural justice, apart from lack of

regular enquiry, which needs to be conducted, particularly when the petitioner asserted that the 3rd respondent granted leave and told him that the VAO would be made incharge during that time. The impugned Orders are arbitrary and illegal and as such, they are liable to be set aside and are accordingly set aside.

The Writ Petition is, therefore, allowed and the respondents are directed to the restore the authorization of the petitioner, forthwith. No order as to costs.

29-9-2006

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